

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 7116 OF 2007

Smt. Shegullabai Menashe Khandalkar
since deceased through her L.Rs..... Petitioner

versus

Chandrakant Dehu Bhagat & ors..... Respondent.

Shri G.S.Godbole for the petitioner.

CORAM; A.P. DESHPANDE, J.
DATED; 28TH SEPTEMBER, 2007

P.C.;

1. This writ petition is filed by the plaintiffs being aggrieved by an order dated 24-4-2007 passed by the Civil Judge, Senior Division, Panvel refusing to summon the arbitrator as a witness. The dispute in the suit pertains to the ownership over a plot of land, which is comprised in a scheme framed under Chapter 5 of the Maharashtra Regional and Town Planning Act 1966. The plaintiff has given the name of the arbitrator as a witness and at an earlier point of time witness summons was issued to the arbitrator, who in compliance of which had appeared before the court and tendered all the documents. Before the examination in chief of the arbitrator could commence, the defendant raised an objection that the arbitrator

is a quasi judicial authority, whose powers and duties are defined in the act and his orders are subjected to appeal, whereas some orders are given finality and thus he cannot be subjected to cross examination. Upholding the objection, after examining the same, in the light of the provisions of sections 72, 73 and 82 of the Town Planning Act, the trial court has declined the request of the plaintiff to examine and cross examine the quasi judicial authority. Aggreived by the said order, the present petition has been filed. The impugned order itself observes that the arbitrator has placed on record of the trial court all the documents summoned from his office and thus the court has found that there is no need for oral evidence of the arbitrator.

2. At this stage, the learned counsel for the petitioner expressed his apprehension that the plaintiff would be handicaped in proving the documents in the absence of the evidence of the arbitrator being recorded. The record does not reveal as to which document the plaintiff wants to prove by the deposition of the arbitrator. I do not think that the plaintiff would be required to prove any document by examining the arbitrator. plaintiff can prove the documents by examining appropriate witness.

3. Perused the order. The same does not call for any interference. Hence writ petition is summarily dismissed.

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